

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TASHAWN HUNTER,	:	
Plaintiff	:	CIVIL ACTION NO. 3:22-1023
v.	:	(MANNION, D.J.) (CARLSON, M.J.)
LEHIGH VALLEY MOUNT POCONO HOSPITAL, et al.,	:	
Defendants	:	

ORDER

Pending before the court is the report of United States Magistrate Judge Martin C. Carlson which recommends that the medical defendants' motion to dismiss (Doc. 43) be granted and the plaintiff's motion for leave to forego the state-mandated certificate of merit requirement (Doc. 50) be denied. (Doc. 60). By order dated February 15, 2024, the court granted the plaintiff's motion for an extension of time to file objections to Judge Carlson's report. (Doc. 65). The plaintiff was given until March 6, 2024, to file objections. To the extent he failed to file objections on or before that date, the plaintiff was advised that the report would be deemed unopposed. As of the date of this order, the plaintiff has failed to file his objections to Judge Carlson's report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. Fed.R.Civ.P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The court has reviewed the record and Judge Carlson's report with respect to the medical defendants' motion to dismiss and the plaintiff's motion to proceed without filing a certificate of merit. The court agrees that the plaintiff cannot bring §1983 claims against private medical personnel. Further, the court agrees that the plaintiff's failure to file a certificate of merit warrants dismissal of the plaintiff's state law claims. As such, the court finds no clear error of record and agrees with the sound reasoning which led Judge Carlson to his conclusions in the report. Therefore, the court will adopt Judge

Carlson's report and recommendation in its entirety as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report of Judge Carlson recommending that the medical defendants' motion to dismiss be granted and the plaintiff's motion to forego the state-law certificate of merit requirement be denied **(Doc. 60)** is **ADOPTED IN ITS ENTIRETY AS THE DECISION OF THE COURT.**
- (2) The medical defendants' motion to dismiss the plaintiff's complaint **(Doc. 43)** is **GRANTED.**
- (3) The plaintiff's motion to forego the state-law certificate of merit requirement **(Doc. 50)** is **DENIED.**

(4) The instant action is **REMANDED** to Judge Carlson for all further pre-trial proceedings.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: March 8, 2024

22-1023-03